

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

In re:) Chapter 7
)
GARRISON MUNICIPAL PARTNER, LP) Case No. 14-32867
)
Debtor.)

**GARRISON CAPITAL MANAGEMENT LLC'S MOTION TO RELEASE PORTION OF
FUNDS HELD IN SOFT DOLLAR ACCOUNT**

THIS MOTION SEEKS AN ORDER THAT MAY ADVERSELY AFFECT YOU. IF YOU OPPOSE THE MOTION, YOU SHOULD IMMEDIATELY CONTACT THE MOVING PARTY TO RESOLVE THE DISPUTE. IF YOU AND THE MOVING PARTY CANNOT AGREE, YOU MUST FILE A RESPONSE AND SEND A COPY TO THE MOVING PARTY. YOU MUST FILE AND SERVE YOUR RESPONSE WITHIN 21 DAYS OF THE DATE THIS WAS SERVED ON YOU. YOUR RESPONSE MUST STATE WHY THE MOTION SHOULD NOT BE GRANTED. IF YOU DO NOT FILE A TIMELY RESPONSE, THE RELIEF MAY BE GRANTED WITHOUT FURTHER NOTICE TO YOU. IF YOU OPPOSE THE MOTION AND HAVE NOT REACHED AN AGREEMENT, YOU MUST ATTEND THE HEARING. UNLESS THE PARTIES AGREE OTHERWISE, THE COURT MAY CONSIDER EVIDENCE AT THE HEARING AND MAY DECIDE THE MOTION AT THE HEARING. REPRESENTED PARTIES SHOULD ACT THROUGH THEIR ATTORNEY.

Garrison Capital Management, LLC (“GCM”) hereby submits this Motion (the “Motion”) for Release of Portion of Funds Held in Soft Dollar Account and respectfully represents as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction to consider this Motion pursuant to 28 U.S.C. §§ 157 and 1334. Consideration of this Motion is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409

BACKGROUND

2. On May 22, 2014, Garrison Municipal Partners, L.P. (the “Debtor”) filed a voluntary petition for relief under chapter 7 of title 11 of the United States Code (the “Bankruptcy Code”) in the United States Bankruptcy Court for the Southern District of Texas (the “Bankruptcy Court”). Rodney Tow was appointed as the Trustee in this case.

3. GCM was an investment management company. It had multiple clients and multiple investments in a broad range of investment vehicles. One of GCM’s business interests was as the general partner of CMG Advisors, LP d/b/a CMG Management, LP (“CMG”). CMG is the general partner of the Debtor pursuant to the Debtor’s Limited Partnership Agreement. Neither GCM nor CMG have filed bankruptcy.

4. On November 4, 2014, the Trustee filed a Motion for Order Requiring Turnover of Property of the Estate Held by Garrison Capital Management LLC and Bloomberg Tradebook LLC [Docket No. 64] (the “Turnover Motion”). The Turnover Motion requested entry of an order requiring GCM and Bloomberg¹ to turn over the Soft Dollar Account and the funds contained therein to the Trustee. While GCM did not oppose the requested relief, GCM does not believe that the account or funds contained therein are property of the Debtor. Rather, the account contained funds generated as a result of trades and investment business conducted on behalf of the Debtor and on behalf of GCM’s other clients and investment activities. It was and is GCM’s understanding that the account was the property of Bloomberg.

5. On December 12, 2014, the Court entered an Agreed Order Granting the Turnover Motion [Docket No. 83] (the “Agreed Order”). Pursuant to the Agreed Order,

¹ Capitalized terms used herein and not otherwise defined have the meaning set forth in the Turnover Motion.

Bloomberg was directed to turnover the funds in the Soft Dollar Account to the Trustee to be held in escrow. The Agreed Order further provided that GCM had thirty days from entry of the Agreed Order to file a motion requesting a release of any portion of the Soft Dollar Account in which GCM claimed an interest.

RELIEF REQUESTED AND ARGUMENT

6. Pursuant to the Agreed Order, GCM files this motion asserting an interest in \$6,396.01 of the funds from the Soft Dollar Account currently held in escrow by the Trustee. As part of its investment management business, GCM operated an investment account at Bloomberg. Consistent with GCM's account agreement with Bloomberg, a portion of the brokerage commissions generated as a result of trades conducted through the Bloomberg account were assigned to the Soft Dollar Account. Contrary to the Trustee's suggestion, these funds were not available to be used at the discretion of the account holder. So far as GCM is aware, the funds actually belonged to Bloomberg.

7. Pursuant to an agreement between GCM and Bloomberg, however, the funds were available to pay certain administrative and research expenses of GCM, subject to the review and approval of the use of the funds by Bloomberg. Quarterly invoices from Bloomberg for expenses related to GCM's use of its Bloomberg trading terminal were among the expenses regularly paid out of this account pursuant to the agreements between Bloomberg and GCM.

8. GCM ceased doing business in September 2014. GCM's Bloomberg terminal was terminated on September 9, 2014. Unknown to GCM, an outstanding invoice from Bloomberg for third quarter 2014 expenses for GCM's trading terminal was never paid out of

the Soft Dollar Account as allowed by the agreements. The invoice was in the amount of \$6,396.01.

9. Recently, GCM learned that Bloomberg did not approve use of the funds in the Soft Dollar Account to pay the outstanding invoice for third quarter expenses because of the pendency of the Escrow Motion and subsequent entry of the Agreed Order. Accordingly, the Soft Dollar Account and funds contained therein were turned over to the Trustee without payment of such invoice. Bloomberg has now presented GCM with a demand for payment of the outstanding invoice.

10. As noted above, GCM does not believe that any of the Bloomberg account funds held by the Trustee are property of the Debtor. Such funds should have been used to pay GCM's outstanding balance for use of the Bloomberg trading terminal. Accordingly, GCM claims an interest in and requests release of the funds held in escrow by the Trustee, in the amount of \$6,396.01 to pay the outstanding Bloomberg invoice.

CONCLUSION

GCM respectfully requests that the Court enter an order (i) granting this Motion; (ii) directing the Trustee to release \$6,396.01 to GCM for payment of the outstanding invoice from Bloomberg; and (iii) granting GCM such other and further relief as is just and proper.

Respectfully submitted this 9th day of January, 2015.

ANDREWS KURTH, LLP

By: /s/ Joseph P. Rovira

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**ATTORNEYS FOR GARRISON CAPITAL
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing pleading was served this 9th day of January, 2015 via the Court's ECF system on those parties entitled to receive ECF notification and on the parties listed below via United States First Class Mail.

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